## Message Text

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**ACTION DLOS-04** 

INFO OCT-01 IO-11 ISO-00 AF-06 ARA-06 EA-07 EUR-12 NEA-10

ACDA-05 AGR-05 AID-05 CEA-01 CEQ-01 CG-00 CIAE-00

CIEP-01 OFA-01 COME-00 DODE-00 DOTE-00 EB-07 EPA-01

ERDA-05 FEAE-00 FMC-01 TRSE-00 H-02 INR-07 INT-05

JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-03 OMB-01

PA-01 PM-04 PRS-01 SP-02 SS-15 USIA-06 SAL-01 /147 W ...... 055174

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FM USMISSION USUN NEWYORK TO SECSTATE WASHDC PRIORITY 5836

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E.O. 11652: GDS TAGS: PLOS UN

SUBJ: LOS: SUMMARY -- COMMITTEE I INTERSESSIONAL MEETINGS

- 1. THIS CABLE SUMMARIZES THE MOST RECENT DEVELOPMENTS IN COMMITTEE I NEGOTIATIONS BASED ON PRIVATE CONSULTATIONS WITH KEY LDC LEADERS AND THE INFORMAL MEETINGS CONVENED IN NEW YORK FEB 2-11 BY COMMITTEE I CHAIRMAN PAUL ENGO.
- 2. A SMALL GROUP OF INFLUENTIAL COMMITTEE I REPS MET DAILY AT THE INVITATION OF BRAZIL IN PARALLEL WITH LARGER FORMAL MEETINGS CHAIRED BY ENGO. SMALL GROUP INCLUDED BRAZIL, CHILE, US, FRANCE, MEXICO, NORWAY, JAMAICA. IT MOVED DIRECTLY TO MANY OF MOST DIVISIVE ISSUES IN COMMITTEE I, WORKED OUT ADVANCES REPRESENTING SUBSTANTIAL IMPROVEMENT OVER SINGLE NEGOTIATING TEXT (SNT), AND ARRANGED TO HAVE ARTICLES REFLECTING THIS PROGRESS PRODUCED AS CHAIRMAN'S REVISED TEXTS.
- 3. PROGRESS MADE BY BRAZILIAN GROUP AND NEGOTIATED AT LARGER CONFIDENTIAL

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MEETING OCCURRED IN FIVE VITAL AREAS:

(A) ECONOMIC IMPLICATIONS -- REVISED VERSION OF ARTICLE NINE ABANDONS THE PREVIOUSLY STRONGLY-HELD LDC DEMAND TO GIVE THE AUTHORITY DIRECT PRIVE AND PRODUCTION CONTROLS TO PROTECT LAND-BASED PRODUCER LDC'S. DRAWING INSTEAD ON PROPOSALS ADVANCED IN PRIVATE BY LDC LEADERS, IT RELIES FOR PROTECTION OF LAND-BASED PRODUCERS ON A COMBINATION OF ANY FUTURE COMMODITY ARRANGEMENTS TO WHICH AFFECTED STATES ARE PARTIES, COMPENSATORY SCHEMES AND A LIMIT ON SEABED PRODUCTION DURING A LIMITED PERIOD (LINKED TO GROWTH IN THE NICKEL MARKET FOR AN INTERIM PERIOD -- 15 YEARS HAS BEEN PROPOSED BY BRAZIL AND CHILE). IN ADDITION, ARTICLE NINE NOW REFLECTS NEED TO BALANCE PRODUCER AND CONSUMER INTERESTS, ALTHOUGH ADDITIONAL WORK IS REQUIRED TO ESTABLISH THE PRIORITY OF ENCOURAGING EXPLORATION AND EXPLOITATION. CONDITIONS UNDER WHICH ANY PROTECTIVE MECHANISM MIGHT BE TRIGGERED DREW HEAVILY ON US PROPOSED AMENDMENTS. SPECIFICS OF COMMODITY ARRANGEMENTS AND COMPENSATORY SCHEMES AND INTERNATIONAL AUTHORITY'S ROLE THEREIN WERE NOT DISCUSSED IN DETAIL AND WILL REOUIRE FURTHER ELABORATION. IT WAS CLEAR HOWEVER THAT LDCS ARE NOW LOOKING TO COMMODITY ARRANGEMENTS FOR PROTECTION RATHER THAN DIRECT PRICE AND PRODUCTION CONTROLS BY THE AUTHORITY.

(B) SYSTEM OF ACCESS -- REVISED ARTICLE TWENTY-TWO PROVIDES FOR PARALLEL SYSTEM OF EXPLOITATION. ACCEPTANCE OF THIS APPROACH BY LDC REPRESENTATIVES IS IMPORTANT BREAKTHROUGH FROM PREVIOUS INSISTENCE THAT ONLY THE AURHOTITY COULD DIRECTLY EXPLOIT. AUTHORITY WOULD HAVE QUOTE EFFECTIVE CONTROL OF A GENERAL AND OVERALL NATURE END QUOTE OVER ACTIVITIES OF EXPLORATION AND EXPLOITATION RATHER THAN QUOTE DIRECT AND EFFECTIVE CONTROL END QUOTE WITH ITS IMPLICATION OF INTERFERENCE WITH MANAGEMENT. UNDER ENGO TEXT STATES AND PRIVATE COMPANIES WOULD HAVE CONTRACTS BASED ON SAME CONDITIONS REQUIRED OF ENTERPRISE WHICH ENSURES US OBJECTIVE OF AVOIDING DISCRIMINATION BETWEEN ENTERPRISE AND OPERATIONS OF PRIVATE COMPANIES. IMPORTANT AND DIFFICULT ISSUES RELATING TO IMPLEMENTATION OF SYSTEM NEED TO BE ELABORATED IN ANNEX ON WHICH NO DETAILED DISCUSSION HELD.

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(C) POWERS AND FUNCTIONS OF THE AUTHORITY -- REVISION OF ARTICLE TWENTY-SIX IS AN IMPROVEMENT OVER SNT. IT DROPS REFERENCE TO ASSEMBLY AS QUOTE SUPREME POLICY MAKING BODY END QUOTE. INSTEAD, ASSEMBLY WOULD MAKE RECOMMENDATIONS AND ESTABLISH GENERAL GUIDELINES AS TO POLICIES TO BE PURSUED WITHIN THE COMPETENCE OF THE AUTHORITY. LIST OF ASSEMBLY'S POWERS AND FUNCTIONS HAS NOW BEEN MADE EXHAUSTIVE. WITH RESPECT TO RESIDUAL POWERS NOT SPECIFICALLY ENTRUSTED

TO ANY ORGAN, AUTHORITY IS LIMITED TO LAYING DOWN GENERAL GUIDELINES AND INDICATING TO WHICH ORGAN THEY ARE DIRECTED. FURTHERMORE, ASSEMBLY MUST HAVE PARTICULAR REGARD TO THE SEPARATION OF POWERS AMONG ORGANS OF THE AUTHORITY PROVIDED IN NEW ARTICLE TWENTY-FOUR (4).

(D) VOTING PROCEDURES IN ASSEMBLY -- REVISED ARTICLE TWENTY-FIVE INCORPORATES SEVERAL PROCEDURAL MECHANISMS WHICH WOULD TEND TO MAKE IT DIFFICULT FOR ASSEMBLY TO TAKE DECISIONS ANDPROVIDE OPPORTUNITY FOR REVERSAL OF DECISIONS AFTER THEY ARE TAKEN, PROTECTIONS INCLUDE: A TWO-THIRDS MAJORITY OF MEMBERS OF THE AUTHORITY TO TAKE SUBSTANTIVE DECISIONS; A COOLING OFF PERIOD BEFORE A VOTE IS TAKEN (BASED ON LOS RULES OF PROCEDURE); DECISIONS ON IMPORTANT QUESTIONS OF SUBSTANCE WILL NOT COME INTO FORCE UNTIL 90 DAYS FOLLOWING SESSION, AND, IF OPPOSED BY ONE-THIRD PLUS ONE DURING PERIOD, DECISION WILL NOT COME INTO FORCE. FURTHERMORE, LDC'S HAVE NOT STRENUOUSLY OBJECTED TO INDICATING DESIRABILITY OF SPECIAL VOTING PROCEDURES FOR CERTAIN QUESTIONS OF SUBSTANCE (E.G. THE COLLEGIAL VOTING SYSTEM PROPOSED BY THE FRENCH, LIMITED HOWEVER TO MAJOR ECONOMIC QUESTIONS), ALTHOUGH SOME INDICATED SOME PRELIMINARY MISGIVINGS. VOTING PROTECTIONS IN THIS ASSEMBLY ARTICLE PLUS PROTECTIONS IN COUNCIL (STILL TO BE NEGOTIATED) MAY WELL PROTECT US INTERESTS.

(E) SCOPE OF AUTHORITY'S POWERS -- ARTICLE TWENTY-ONE
REVISION REPRESENTS MAJOR ADVANCE FOR US SECURITY INTERESTS.
LDC'S BACKED AWAY FROM DEMAND THAT AUTHORITY QUOTE
ADMINISTER THE AREA END QUOTE -- A FORMULATION ENCOMPASSING
ALL ACTIVITIES CONDUCTED ON THE SEABED BEYOND NATIONAL
JURISDICTION -- AND AGREED TO RESTRICT AUTHORITY TO ADMINISTRATION
OF RESOURCES OF, AND ACTIVITIES IN, THE AREA. WE WERE UNABLE
TO INSERT PROVISION IN ARTICLE THAT PRIMARY PURPOSE OF
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AUTHORITY IS TO PROMOTE EXPLORATION AND EXPLOITATION ALTHOUGH THERE ARE OTHER PLACES IN TEXT WHERE IT MIGHT BE INSERTED LATER.

(F) PROCEDURAL PROTECTIONS -- IN REVISING ARTICLES TWENTY-FOUR AND TWENTY-SIX, LDC'S AGREED TO INCORPORATE A VARIETY OF PROCEDURAL MECHANISMS TO IMPROVE US ABILITY TO INFLUENCE AND CONTROL AUTHORITY, E.G. SEPARATION OF POWERS AMONG PRINCIPAL ORGANS, THE ENTERPRISE WILL NOT BE A PRINCIPLA ORGAN, ROLE OF TECHNICAL COMMISSION IS SUPERVISION OF ACTIVITIES IS ENHANCED.

4. TEXTS ARE BOTH THE PERSONAL TEXTS OF ENGO REFLECTING THE STATE OF NEGOTIATIONS AND THE PRODUCT OF NEGOTIATIONS. TO THOSE NOT INVITED TO NY MEETING, ENGO WILL REPRESENT

TEXTS AS HIS PRODUCT BASED ON PRIVATE CONSULTATIONS HE HAS CONDUCTED IN THE INTERSESSIONAL PERIOD AS WELL AS THE NOVEMBER 1975 AND FEB 1976 INTERSESSIONAL MEETINGS. HE INTENDS TO SEND COPIES TO MEMBERS OF ENGO GROUP WHO WERE INVITED BUT DID NOT SHOW UP AND TO CHAIRMAN OF G-77.

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5. WE HAVE HAD USEFUL BILATERAL DISCUSSIONS WITH BRAZIL ON SCIENTIFIC RESEARCH. THEIR COMMITTEE I REP INDICATED THEIR PRIMARY CONCERN IS TO LIMIT ACTIVITIES IN THEIR ECONOMIC ZONE. HE ADMITTED THAT THEIR INTERESTS IN CONTROL OVER SCIENTIFIC RESEARCH DID NOT EXTEND TO DEEP SEABED AND WILL ARGUE FOR SUCH DISTINCTION DURING THEIR UPCOMING POLICY REVIEW IN BRASILIA. BRAZIL HAS BEEN PARTICULARLY DIFFICULT ON THIS ISSUE IN THE PAST AND A SWITCH IN HER POSITION MAY BE QUITE INFLUENTIAL WITHIN 77.

6. WITHIN GROUP IF FIVE (UK, US, USSR, FRANCE, JAPAN)
THEE HAS BEEN UNDERLYING DIVISION OVER QUESTION OF A QUOTA
RESTRICTING STATES ACCESS TO RESOURCES. PREVIOUSLY, UK
HAD BEEN STRONGEST PROPONENT. THEIR CI REP NOW INDICATES
THAT IN MINISTERIAL REVIEW IN PROGRESS IN LONDON THEY ARE

SEEKING FELXIBILITY ON POINT AND JAPANESE HAVE TOLD FRG
THEY ARE PREPARING TO GIVE UP INSISTENCE ON QUOTA. ALL MEMBERS
OF GROUP AGREED THAT IMPORTANT PROGRESS MADE IN NY. UK
MOST SUPPORTIVE OF ENGO TEXTS. GROUP AGREED THERE WAS NEED
TO RESOLVE MAIN ISSUES DIVIDING GROUP -- QUOTA SYSTEM,
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TRIBUNAL, COMPOSITION OF COUNCIL, AND SPECIAL CONSIDERATION FOR STATES WITH MAJOR IMPORTING NEEDS. MEMBERS WILL CHECK WITH CAPITALS ON POSSIBLE GROUP OF 5 EXPERTS MEETING IN NY 12-13 MARCH. GENERAL AGREEMENT THAT HEADS OF DEL SHOULD MEET EARLY IN MARCH SESSION ON CI ISSUES.

7. LDC LEADERS CONTINUE TO RAISE WITH US REP THE US PROPOSAL MADE IN GENEVA FOR RESERVATION OF AREAS FOR PREFERENTIAL ACCESS FOR LDC'S. THEY BELIEVE SUCH A SYSTEM WOULD BE AN IMPORTANT ELEMENT OF AN ACCEPTABLE COMMITTEE I PACKAGE WHICH INCLUDES A PARALLEL SYSTEM OF EXPOITATION SUCH AS PROPOSED IN THE SECRETARY'S MONTREAL LOS SPEECH.

8. OTHER ISSUES -- ALTHOUGH MEETINGS HAVE NOT ADDRESSED THEM SPECIFICALLY, IN PRIVATE CONVERSATIONS, LDC LEADERS INDICATE THAT IF SPIRIT OF PROGRESS ON MAJOR ECONOMIC ISSUES CONTINUES, THEY WILL BE FLEXIBLE ON OTHER IMPORTANT US ISSUES SUCH AS COMPOSITION OF COUNCIL, TRIBUNAL FOR SETTLEMENT OF DISPUTES AND US PROPOSAL FOR RULE MAKING PROCEDURES.

9. THESE MEETINGS HAVE ALSO PRODUCED SIGNIFICANT CHANGES IN PROCEDURE WITHIN THE COMMITTEE. IN SHARP CONTRAST TO HIS PAST BEHAVIOR, CHAIRMAN ENGO HAS NOT ONLY PROVIDED ADEQUATE TIME AWAY FROM FORMAL MEETINGS TO PERMIT PRIVATE NEGOTIATIONS BUT HE HAS RESPECTED WORK PRODUCT OF THOSE NEGOTIATIONS. AS RESULT, HE HAS TAKEN VERBATIM TEXTS WORKED OUT IN BRAZIL GROUP, COOPERATED IN PRESENTATION OF THE IDEAS CONTAINED THEREIN TO THE FULL MEETING, AND THEN PUT THESE TEXTS FORWARD AS HIS OWN ATTEMPT TO REFLECT NEGOTIATING PROGRESS. CONSEQUENTLY, THIS MEETING WILL HAVE PRODUCED CHAIRMAN'S REVISIONS OF SIX CRITICAL ARTICLES WHICH ARE VERY SUBSTANTIAL IMPROVEMENTS OVER SINGLE NEGOTIATING TEXT. THESE ARTICLES NOW GIVE COMMITTEE I GOOD BASIS FOR FUTURE DETAILED NEGOTIATION. FURTHERMORE, EMERGENCE OF THESE ARTICLES PRIOR TO MARCH SESSION SIMPLIFIES THE NEGOTIATING TASK BEFORE THE COMMITTEE. IT NOW APPEARS IT MAY BE POSSIBLE TO COMPLETE THE WORK OF COMMITTEE I IN TWO SESSION IN 1976. ALTHOUGH MANY DIFFICULTIES LIE AHEAD.

10. ENGO WILL MEET WITH PRESIDENT OF CONFERENCE AND CHAIRMAN C-II AND III JUST BEFORE CONFERENCE TO DISCUSS PROCEDURE. CONFIDENTIAL.

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HE INDICATED PROCEDURDS WILL HAE TO MEET NEEDS OF C-I
AND THAT HE WOULD NOT ACCEPT UNIFORMITY FOR ITS OWN SAKE.
US SUGGESTED CONTINUING ENGO GROUP AND WHILE ASSURING
CONSULTATIONS IN REGIONAL GROUPS MOVING TEXTS NEXT TO MIDDLESIZED (50-60) GROUP (OR ALTERNATIVELY AN INFORMAL C-I),
AND THEN TO C-I. FRANCE, SINGAPORE AND UK (ONLY SPEAKERS)
GENERALLY SUPPORTED US APPROACH. ENGO WAS NON-COMMITTAL
ON FUTURE METHODS OF NEGOTIATIONS THOUGH HE IS CLEARLY PLEASED
WITH THE GROUP OF 35 ASSEMBLED AROUND HIM DURING THIS MEETING.

11. THE BRAZILIAN GROUP WHICH ACHIEVED THESE ADVANCES HAS PROVED ITSELF TO BE AN EXTREMELY EFFECTIVE NEGOTIATING FORUM. DISCUSSIONS ARE SERIOUS, ISSUES ARE TACKLED WITH A VIEW TOWARD RESOLUTION, AND ALL MEMBERS HAVE ACCEPTED RESPONSIBILITY FOR GETTING RESULTS OF NEGOTIATIONS SUPPORTED IN LARGER GROUPS. THE MEMBERS INCLUDED BOTH INFLUENTIAL LAND-BASED PRODUCER LDC'S (BRAZIL, CHILE) AND THE MAJOR SPOKESMAN FOR MERGING CONSUMER INTERESTS IN G77 (SINGAPORE). NORWAY SERVES AS A CREDIBLE MEDIATOR WITHIN GROUP. MEXICO HAS BEEN USEFUL AS A MODERATE LATIN AMERICAM. US AND FRENCH REPRESENTATION PROVIDES CONTACT WITH G5 AND EC-9. THE CHARACTER OF THIS GROUP HAS BEEN AIDED SIGNIFICANTLY BY THE FACT THAT BRAZIL HAS CLEARLY CHANGED ITS SUBSTANTIVE POSITION, SEEING HERSELF AS A CONSUMER AND POTENTIAL SEABED PRODUCER (RATHER THAN ONLY A LAND-BASED PRODUCER) BUT MAIN-TAINING A COMMITMENT TO SUPPORT AND WORK WITH THE GROUP OF 77.

12. IN SUMMARY, PROGRESS DURING THESE INFORMAL CONSULTATIONS, IF UPHELD AND SUPPORTED BY LDC LEADERSHIP AT MARCH SESSION, COULD SERVE AS NECESSARY CATALYST FOR TIMELY COMPLETION OF CI NEGOTIATIONS.

13. MAJOR DIFFICULTIES TO BE NOTED IN FUTURE WORK INCLUDE: PERUVIAN AND ALGERIAN ATTITUDES TOWARD COMPROMISE TEXTS REACHED IN NEW YORK. NETHER C-I DELEGATE WAS PRESENT ALTHOUGH PERUVIAN MISSION REP HAS BEEN INCLUDED AT ALL MEETINGS OF BRAZIL GROUP AND CHILEAN REP WILL MEET WITH DE SOTO (PERU) THIS WEEK IN LIMA; ABILITY OF G-77 TO ACCEPT DRASTIC CHANGES IN THEIR TRADITIONAL POSITIONS EVEN IN AREAS OF GREAT IDEOLOGICAL IMPORTANCE; ABILITY OF MODERATE LDC'S SUCH AS BRAZIL AND SINGAPORE TO INFLUENCE G-77 POSITIONS; CONFIDENTIAL.

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AND WILLINGNESS OF ENGO TO PLAY OUT HIS NEW ROLE OF INTRODUCING AND DEFENDING TEXTS DRAFTED FOR HIM BY PRINCIPAL NEGOTIATORS.

14. PROBLEM OF QUOTA SYSTEM AMONG INDUSTRIALIZED COUNTRIES
IS STILL VERY SERIOUS ALTHOUGH IN LAST FEW DAYS FRG HAS
BEEN ACTIVELY SEEKING ROLE AS MEDIATOR AND HAS SUGGESTED
NEW IDEAS TO JAPAN, FRANCE, UK AND US ALONG LINES OF A
SUBSIDIARY AGREEMENT AMONG INDUSTRIALIZED OCEAN MINING
COUNTRIES FOR A COORDINATED SHARING APPROACH TO OCEAN MINE SITES
TOGETHER WITH GUARANTEES AS TO SECURITY OF SUPPLIES IF ONE
COUNTRY FORCED INTO LOCATING PROCESSING PLANT IN ANOTHER.
IDEA HAS BEEN REFERRED TO AS A QUOTE COMMON MARKET END QUOTE
FOR OCEAN MINERS. FRG MAY TAKE STPES TO ELABORATE ITS THINKING
DURING NEXT FEW WEEKS.
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## Message Attributes

Automatic Decaptioning: X Capture Date: 01 JAN 1994 Channel Indicators: n/a

**Current Classification: UNCLASSIFIED** 

Concepts: LAW OF THE SEA, COMMITTEE MEETINGS, MEETING REPORTS, AMENDMENTS, NEGOTIATIONS

Control Number: n/a Copy: SINGLE Draft Date: 12 FEB 1976 Decaption Date: 01 JAN 1960 Decaption Note: Disposition Action: RELEASED

Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ellisoob
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976 USUNN00543

Document Number: 1976USUNN00543
Document Source: CORE
Document Unique ID: 00 Drafter: n/a

Enclosure: n/a Executive Order: GS Errors: N/A

Film Number: D760054-0193 From: USUN NEW YORK Handling Restrictions: n/a Image Path:

Legacy Key: link1976/newtext/t19760253/aaaabunp.tel Line Count: 343

Locator: TEXT ON-LINE, ON MICROFILM Office: ACTION DLOS Original Classification: CONFIDENTIAL Original Handling Restrictions: n/a Original Previous Classification: n/a Original Previous Handling Restrictions: n/a

Page Count: 7

Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL Previous Handling Restrictions: n/a Reference: n/a

Review Action: RELEASED, APPROVED Review Authority: ellisoob

Review Comment: n/a Review Content Flags: Review Date: 13 APR 2004

**Review Event:** 

Review Exemptions: n/a
Review History: RELEASED <13 APR 2004 by SmithRJ>; APPROVED <16 AUG 2004 by ellisoob>

**Review Markings:** 

Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MÁY 2006

**Review Media Identifier:** Review Referrals: n/a Review Release Date: n/a Review Release Event: n/a **Review Transfer Date:** Review Withdrawn Fields: n/a

Secure: OPEN Status: NATIVE

Subject: LOS: SUMMARY -- COMMITTEE | INTERSESSIONAL MEETINGS TAGS: PLOS, UN To: STATE

Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006